



Ref: IRDA/NL/ORD/MTP/ 122/05/2021

Order in the matter of M/s SBI General Insurance Company Ltd.

Based on the

- (i) Show Cause Notice (hereinafter referred to as "SCN") Dated 23rd September, 2020 issued by the Adjudicating Officer appointed by the Authority.
- (ii) Reply of M/s SBI General Insurance Company Limited (hereinafter referred to as 'the Insurer' or 'the Company') dated 15th October, 2020 to the SCN.
- (iii) Submissions made by the Insurer before the Adjudicating Officer during virtual Personal Hearing on 18th December, 2020.
- (iv) Report of Adjudicating Officer dated 12th January, 2021.
- (v) Authority's letter dated 18th March, 2021, giving the Insurer an opportunity of personal hearing in the matter.
- (vi) Reply of the Insurer dated 24th March, 2021 to the Authority's letter dated 18th March, 2021.
- (vii) The submissions made by the Insurer during the virtual Personal Hearing held on 16th April, 2021 at 3:00 PM granted by the Chairman of the Authority.

Background:

- 1) On examination of the data submitted by the Insurer in accordance with IRDAI (Obligation of Insurer in respect of Motor Third Party Insurance Business) Regulations, 2015, it was observed that the Insurer did not comply with the Motor Third Party Obligation (hereinafter referred to as 'MTP Obligations') for the FY 2018-19.
- 2) As regards possible violation of Section 32D of Insurance Act, 1938 (hereinafter referred as 'the Act'), the matter was referred to the Adjudicating Officer appointed by the Authority as per the provisions of Section 105C of the Act.
- 3) The Adjudicating Officer issued a Show Cause Notice (SCN) vide letter ref. no. IRDAI/ADJ/SBI General/ /2020-21/ dated 23rd September, 2020 under Rule 4 of the Insurance (Procedure for Holding Inquiry by Adjudicating Officer) Rules, 2016 (hereinafter referred to as 'AO Rules').
- 4) The Insurer vide its letter dated 15th October, 2020 submitted its response to the SCN and as per the request of the Insurer, the Adjudicating Officer granted a personal hearing in the matter on 18th December, 2020.

- 5) The Adjudicating Officer submitted the inquiry report along with recommendations to the Authority on 12th January, 2021.
- 6) On examination of the Adjudicating Officer's report, the Authority issued a letter dated 18th March, 2021, offering another opportunity of personal hearing to the Insurer under section 105C (2) of Insurance Act, 1938.
- 7) The Insurer vide its letter dated 24th March, 2021 sought personal hearing, which was held by the undersigned on 16th April, 2021 virtually. Shri P.C. Kandpal, MD & CEO, Shri Pushan Mahapatra, President-Strategic Investments & Open Market, Shri Subramanyam B., Head- Reinsurance & Product, Shri. Mahendra Tripathi, Head- Compliance, Legal & CS, Shri Rikhil Shah, SVP & CFO, Shri Shatrughan Singh, Lead-Compliance of the Insurer were present in the hearing. On behalf of the Authority, Smt. Yegnapriya Bharat, CGM (Non-Life), Smt. Anita Josyula, GM (Non-Life), Shri. V. Satish OSD (Non-Life) and Shri. A. Shrihari, Manager (Non-Life) attended.
- 8) The recommendations of the Adjudicating officer, submissions of the Insurer to the SCN vide letter dt. 15.10.2020, reply of the insurer dated 24.03.2021, and submissions made during personal hearing held on 16.04.2021 have been carefully considered.
- 9) **Charge**

Violation of Sec. 32D of Insurance Act, 1938: The Insurer did not comply with the MTP Obligation for the FY 2018-19 calculated as per Regulation 3 of IRDAI (Obligation of Insurer in respect of Motor Third Party Insurance Business) Regulations, 2015. During the FY 2018-19, the Insurer has underwritten Rs. 316.36 crore as against the minimum obligatory MTP Insurance business of Rs. 638.34 crore resulting in a shortfall of Rs. 321.98 crore. In percentage terms, the shortfall works out around 50.44% of the MTP Insurance business obligation.

- 10) The details of shortfall/ excess for the financial years 2015-16 to 2019-20 are as follows:

(Rs. in crores)

FY 2019-20		FY 2018-19		FY 2017-18		FY 2016-17		FY 2015-16	
Shortfall (-ve)/ Excess (+ve)									
Amount	%	Amount	%	Amount	%	Amount	%	Amount	%
35.24	4.52%	-321.98	-50.44%	-104.60	-24.08%	-146.11	-38.59%	2.93	1.06%

11) **Insurer's submissions:**

- (a) The insurer also stated that it has modified their business strategy around Motor TP business, which helped them to achieve their Motor TP Obligation for the FY 2019-20.
- (b) The insurer also stated that they have met the Motor TP Obligation for the FY 2020-21 and has underwritten Motor TP business of Rs. 1255.17 crores as against the Motor TP Obligation of Rs. 1225.56 crores in the FY 2020-21.
- (c) The Insurer further stated that they would be making up the shortfall for the financial year 2016-17, 2017-18 & 2018-19 by FY 2022-23. The insurer had earlier given an undertaking to meet the shortfall of previous years by 2021-22 but would now need one additional year because of the prevailing pandemic situation.
- (d) The insurer stated that they have never refused any MTP policy at any of its place of business during the financial year 2018-19 and there was no malafide intention on their part.
- (e) Despite the best efforts, the Company was unable to meet the target of third party motor policies on account of the limited number of third party motor policy proposals coming to the Company and this was not within their control.
- (f) The insurer did not make any disproportionate gain or took any unfair advantage on account of MTP shortfall nor has there been any loss caused to any policy holder and as such the company has not defaulted under section 105C
- (g) The insurer stated that they have not committed any default under Section 105B, as that Section is attracted only if there is default under all the three sections, i.e. 32B, 32C and 32D of the Act.

Decision of the Authority:

- 12) The submissions of the insurer have been carefully considered, and the following are noted:
- (a) Due to repetitive nature of non-compliance, Adjudicative Officer recommended a penalty of Rs. 1,00,00,000/- (Rupees One crore) for FY 2018-19.
 - (b) Sections 32B, 32C and 32D are distinct from one another and compliance to any one of the sections does not absolve the insurer from non-compliance of provisions of other sections.
 - (c) The basic objectives of Section 32D of Insurance Act, 1938 and IRDAI (Obligation of Insurer in respect of Motor Third Party Insurance Business) Regulations, 2015 are to reduce the number of uninsured vehicles, to ensure that no insurer refuses to underwrite MTP insurance

cover, and to ensure that insurance risk is not concentrated with only a limited few insurers but is spread across the Industry.

- (d) For the financial year 2018-19, the Insurer did not fulfill the obligation and had a shortfall of Rs. 321.98 crores (50.44%), which amounts to non-compliance of Regulation 3 of IRDAI (Obligation of Insurer in respect of Motor Third Party Insurance Business) Regulations, 2015.
- (e) The Insurer had not fulfilled the MTP obligations during the immediate previous two financial years 2016-17 & 2017-18 with a shortfall of Rs. 146.11crores (38.59%) & Rs.104.60 crores (24.08%) respectively.

13. Taking into consideration the repetitive nature of violation, magnitude of violation, the submissions of the insurer and that they have fulfilled and marginally exceeded their obligations for FY 2019-20 & 2020-21, the Authority, in exercise of its power vested as per the provisions of Section 105C of the Insurance Act, 1938, hereby imposes a penalty of **Rs. 30,00,000/- (Rupees thirty lakh only)**.

14. Further, the insurer is advised to ensure strict compliance in future of the obligations under Motor Third Party business as specified in IRDAI (Obligation of Insurer in respect of Motor Third Party Insurance Business) Regulations, 2015.

15. **Summary of Decisions:**

Charge No.	Violation of Provisions	Decision
1	Non-Compliance with minimum obligations under Motor Third Party business as specified in IRDAI (Obligation of Insurer in respect of Motor Third Party Insurance Business) Regulations, 2015 for the financial year 2018-19	Penalty of Rs. 30 Lakh and Advisory

16. The penalty of Rs. 30,00,000/- (Rupees thirty lakh only) shall be remitted by the insurer by debiting the shareholders' account within a period of 45 days from the date of receipt of this order through NEFT/RTGS (details for which will be communicated separately). An intimation of remittance may be sent to Mrs. Yegnabriya Bharath, Chief General Manager (Non-Life) at the Insurance Regulatory and Development Authority of India, Survey No.115/1, Financial District, Nanakramguda, Hyderabad 500032, email id - ypriyab@irdai.gov.in.

17. The order shall be placed before the Board of the Insurer in the upcoming Board Meeting and the Insurer shall provide a copy of the minutes of Board meeting to the Authority.

18. If the insurer feels aggrieved by this Order, an appeal may be preferred to the Securities Appellate Tribunal as per the provisions of Section 110 of the Insurance Act, 1938.

Place: Hyderabad
Date: 5th May 2021

-Sd/
(Dr. Subhash C. Khuntia)
Chairman